

SIGNED MINUTES

MINUTES OF THE MEETING OF THE AML/CFT ADVISORY GROUP HELD AT 2.00PM, TUESDAY 13 FEBRUARY 2018 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
Joanne Hetherington, AML/CFT Policy Manager, Cabinet Office (Minutes)
Lindsey Bermingham, Director, FIU
Helen Ault, Deputy Director AML/CFT, GSC
Lucie Kennedy, Legal & Policy Team Leader, Customs & Excise Division
Kelly Mercer, Manager, AML Unit, IoMFSA
Bryn Griffith, Manager, AML/Beneficial Ownership, IoMFSA
Tom Bateman, Legislation Manager, DHA
Mark England, Risk & Compliance Manager, IoM Post Office
Juan Moore, CEO IoM Law Society
Gill Marples, Chair, MIA
Mark Denton, Chair, ACSP
Graeme Snape, Chair, AICP
Sinead O'Connor, Representative, IoMCA
Bill Mummary, Committee Director IoM CoC ICT Committee
Sandra Skuszka, Chair, ACCA
Paul Clague, Member, IoM Wealth & Funds Association
Jon Whiting, Representative, IoMSCA
Phil O'Shea, Chair of Risk & Compliance Committee, IoMBA & Institute of Directors
Dougie Elliott, Chair, APSP

Apologies: Stuart Quayle, Director of Policy & Legislation, Treasury
David Griffin, Head of Enforcement IoMFSA
Iain MacMillan, Operations Manager, FIU
Julian Lalor-Smith, Director of Administration & Legislation, DHA
Nathan Holden, Committee Member, CISI
Jon Barwood, Committee Member, FPIBA
Kurt Roosen, MICTA
Charles Garside, IOM Estate Agents

001/18 MINUTES OF AML/CFT ADVISORY GROUP MEETING HELD ON 5 OCTOBER 2017

Having been previously circulated, the minutes of the AML/CFT Advisory Group ("the Group") meeting held on 5 October 2017 were agreed and signed by the Chair subject to the following amendments:

a) Beneficial Ownership

Minute 038/17d

Amend the third paragraph to read:

"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."

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b) Industry Roundtable

Minute 040/17

Amend the last sentence in the second bullet point to read:

"In response, the Chair advised that this would depend upon the effectiveness of the mitigating measures in place."

002/18 MATTERS ARISING FROM THE MINUTES

a) Financial Crime Update

Minute 041/17

It was noted that DCI Jed Bibby has been appointed to the position of Superintendent, and is now Director of Financial and Cyber Crime in the IoM Constabulary's Financial Crime Unit.

b) Financial Flows working group

Minute 045/17a

An update on the IoMFSAs 'Financial Flows' working group was provided. The Group noted that the banking sector has submitted data and 74% of financial flows by deposit base are now understood. There appears to be no significant movements of money flows to high risk jurisdictions, which is very helpful for the IoM's threat assessment.

c) Acting On Behalf Of working group

Minute 045/17b

It was noted that the IoMFSAs has received an industry proposal for an amended 'Acting On Behalf Of' paragraph to be included at Section 21B of the AML/CFT Code. The IoMFSAs is to consult an independent expert to consider the proposal, and whether or not it would satisfy the FATF Recommendations.

d) AML/CFT statistical returns

Minute 045/17c

It was noted that the IoMFSAs is grateful to industry for the very high response rates (from both financial institutions and DNFBPs) to its data collection exercise which closed on 30 November 2017.

The IoMFSAs is reviewing these submissions and will be seeking to engage with each sector to discuss the findings in due course.

003/18 ACTIONS LOG

The Group noted the content of the Actions Log which had been circulated previously and in particular:

a) Gambling (AML/CFT) data

Action 9

It was noted that a trial run of gambling AML/CFT returns using a new template had been successfully undertaken in Q4 2017, with a 100% response rate from the sector. The submissions are being reviewed and discussed with members of the Gambling MLRO Forum.

b) Gambling (AML/CFT) Code

Action 10

The Deputy Director of AML/CFT, GSC, advised that work is underway with the IoMFSA to remove a number of provisions from the AML/CFT Code and create a dedicated Gambling AML/CFT Code, which will cover the gambling sector.

004/18 INDUSTRY & AUTHORITY ROUNDTABLE

Updates were received from industry representatives and in particular:

- The IoMBA advised that positive liaison was continuing between the banking sector and the Financial Intelligence Unit (FIU) through the provision of the FIU's comprehensive training programme (eg. typologies, SARs).
- The IoM Wealth and Funds Association reported that the sector did not have sufficient time or data to respond comprehensively to the IoMFSA's AML/CFT statistical return exercise. Should the exercise be repeated in future, the sector would like more time to undertake this work.
- The IoMCoC reported that ongoing work with the GSC was helpful in addition to the FIU's SAR Guidance. Progress was also being made in terms of surrendering gambling funds (~ €250K) which, for reasons of suspicion, were being held by the sector and not returned to the account holder.
- The IoMCA queried whether the financial flows work with the banking sector included IoM Post Office money exchanges to high risk jurisdictions. During discussion, it was confirmed that the initial work undertaken had focussed on gathering information from the clearing banks.
- The ACSP advised that its members were awaiting the outcome of the review (as per the Exchange of Notes between the UK & IoM Govt) of arrangements in place between the UK and each of its territories (including the IoM) for the sharing of beneficial ownership information.
- ACSP members are also awaiting the outcome of the IoMFSA's data collection exercise and an update on changes to the AML/CFT Code.
- The ACSP expressed concern that the recent EU's Economic and Financial Affairs Council (ECOFIN) "grey-listing" of the IoM has been reframed as a TCSP issue, and that the value of the sector is being underestimated. Concern was also expressed that should the IoM not be able to demonstrate sufficient legal substance, requirements for entities doing business in, or through, the IoM within one year as set out by the EU, then the IoM could be blacklisted, which would present a very serious threat to the Island's economy.
- A number of members of the Group sought further information from the IoMFSA on the timescale and proposals to amend the AML/CFT Code. It was noted that any amendments to the "Acting on behalf of" concession would be the most significant changes.
- Members of the Group also discussed the AML/CFT Handbook and suggested that it would be very helpful if the IoMFSA could share proposed

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changes by way of an informal pre-consultation if possible. The IoMFSA advised that it does not usually consult on Handbook changes, but that it would consider circulating proposals to the AML/CFT Advisory Group by email in future, in order to keep industry informed.

- The MIA asked whether Government information and feedback on current key issues could be made available via a formal mechanism, which industry associations could then use to report back to their respective Boards. This matter was also raised at the Department for Enterprise's Financial Services Partnership meeting. The Group discussed how such an approach would help to ensure clarity and consistency in respect of messages and it was **agreed** that this matter would be followed up by the Cabinet Office.

**ACTION
CO**

Updates were received from authority representatives and in particular:

- The FIU has issued its SAR Guidance; Real time TF Guidance and Typologies Guidance. The FIU Annual Report which was laid before the January 2018 sitting of Tynwald will be circulated to the Group. The FIU Strategic Delivery Plan will be issued before the end of the 2017-2018 financial year.
- The Customs and Excise Division has been in discussion with the FIU regarding the reporting mechanism for financial sanctions breaches, which are to be delegated to the FIU. Subject to the appropriate arrangements being in place, in addition to comprehensive communications with industry, it is anticipated that industry will be able to report such breaches to the FIU by 1 April 2018.
- There was a general discussion regarding the need to simplify and streamline the reporting process for industry, and the issue of reporting fraud to the Police was queried. However, it was noted that as fraud is a crime, it is appropriate that it should be reported to the Police (i.e. rather than the FIU, which does not have any investigatory powers).
- The IoM Post Office has engaged with the FIU, to deliver SAR training to sub-postmasters. The aim of the training is to ensure that there is a consistent level of awareness and understanding, and in-house guidance on the importance of SARs has been issued to staff.
- The Cabinet Office advised that the USA publishes an annual report on "Jurisdictions of primary concern" pursuant to the International Narcotics Control Strategy Report (INSCR). It was noted that historically, the UK Crown Dependencies have appeared on the list, but this year they have not.

005/18 MONEYVAL 1ST ENHANCED FOLLOW-UP REPORT

The Group noted that the IoM's 1st Enhanced Follow-Up Report was submitted to MONEYVAL on 31 January 2018 in accordance with MONEYVAL's timetable. The report provided comprehensive details of progress made against technical and effectiveness recommendations since the MONEYVAL on-site assessment (April / May 2016).

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By the IoM's estimates, ~70% of the 62 recommended effectiveness actions have been addressed, and ~50% of the 218 recommended technical actions have been addressed, which demonstrates significant commitment by the IoM authorities.

The IoM expects to receive further correspondence from MONEYVAL over the next few weeks regarding the report (e.g. seeking further clarification or details of any measures). The Group noted that the MONEYVAL Plenary date has been moved from April 2018 to July 2018, which is when the IoM's report will be considered.

006/18 LEGISLATION UPDATE

a) Anti-Money Laundering & Other Financial Crime (Miscellaneous Amendments) Bill 2017

The Group noted that a 7-week consultation on the Anti-Money Laundering and Other Financial Crime (Miscellaneous Amendments) Bill 2017 had been undertaken from 18 December 2017 to 5 February 2018 via the IoM Government's Consultation Hub (<https://consult.gov.im/>). The consultation attracted 18 responses in total; 12 by email or post and 6 online.

The Cabinet Office has considered all the responses and a number of amendments have been made to the Bill, which, subject to the appropriate approvals will be introduced into the House of Keys on 6 March 2018 by Ms Bettison MHK, Member for the Department of Home Affairs.

A report detailing the consultation submissions and the Cabinet Office's responses will be published on or before 28 February 2018 via the Consultation Hub. The Group noted that subject to the progression of the Bill through the Legislative Branches, Royal Assent could be announced in Tynwald at the June or July 2018 sitting, which could be submitted as evidence of progress to MONEYVAL for the July 2018 meeting.

b) Customs and Excise Bill 2018

The Group noted that the Customs and Excise Bill 2018 is due to receive Royal Assent at the February 2018 sitting of Tynwald. The Act is due to come into operation on 1 March 2018.

c) Gambling (Anti-Money Laundering and Countering the Financing of Terrorism) Act 2018

The Group noted that Royal Assent was announced for the Gambling (Anti-Money Laundering and Countering the Financing of Terrorism) Act 2018 at the January 2018 sitting of Tynwald. The Act gives more supervisory powers and a suite of sanctions tools to the GSC.

It was further noted that work is underway by the Treasury to prepare Rules for the Gambling Appeals Tribunal and members of the tribunal will be appointed independently by the Appointments Commission.

d) Financial Intelligence Unit (Tipping Off) Regulations 2018

The Group noted that the Financial Intelligence Unit (Tipping Off) Regulations 2018 [SD No 2018/0037] are due to be laid before the February 2018 sitting of Tynwald, and subject to approval will come into operation on 1 March 2018.

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007/18 NATIONAL RISK ASSESSMENT REVIEW

The Group noted that a review of the IoM's National Risk Assessment ("NRA") of Money Laundering and the Financing of Terrorism (published in March 2016) was continuing.

The Cabinet Office intends to review the threat assessments based on new information regarding these sectors, in addition to revisiting national vulnerabilities. Significant improvements have also been made in a number of key areas, including the Financial Crime Unit and the Financial Intelligence Unit which will be important to capture. It was agreed that it was important to refresh and update the NRA in order to ensure that the IoM continues to have a robust assessment of ML/TF risks.

A member of the Group questioned whether the NRA will be republished as a whole document or if sector-specific updates will be issued. The Chair advised that a communications plan would be agreed in due course.

**ACTION
CO**

008/18 ANY OTHER BUSINESS

a) IoMFSA public statement regarding unlicensed regulated activity

The AML/Beneficial Ownership Manager, IoMFSA, advised that the regulator had issued a [public statement](#) regarding unlicensed regulated activity on 26 January 2018. It was noted that the IoMFSA will be conducting a pro-active initiative to identify persons conducting regulated activity without a licence and information can also be passed to the IoMFSA anonymously. Cross-border marketing was raised as a potential area of interest and the AML/Beneficial Ownership Manager advised that he would be happy to receive such examples.

b) AML/CFT Advisory Group representation by the gambling sector

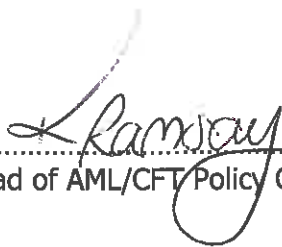
The Deputy Director of AML/CFT, GSC, expressed concern that the gambling sector was not being adequately represented within the Group, and suggested that an additional place on the Group should be opened up to members of the GSC's Gambling MLRO Forum. The Chair agreed that that it was important for each sector to be adequately represented and following discussion, the Group **agreed** that a place should be offered to a member of the Gambling MLRO Forum.

**ACTION
GSC**

009/18 DATE OF NEXT MEETING

2.00pm Tuesday 15 May 2018. (The APSP Chair gave his apologies).

The meeting closed at 2.55pm


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Head of AML/CFT Policy Office, Cabinet Office
15/5/18
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Date