

MINUTES

SIGNED MINUTES OF THE MEETING OF THE AML/CFT ADVISORY GROUP HELD AT 2.00PM, WEDNESDAY 12 JUNE 2019 IN THE BARRULE SUITE, GOVERNMENT OFFICE, ISLE OF MAN GOVERNMENT

Present: Karen Ramsay, Head of AML/CFT Policy, Cabinet Office (Chair)
Paul Heckles, AML/CFT Advisor, Cabinet Office
Sean Gavin, AML/CFT Policy Manager, Cabinet Office (Minutes)
Lindsey Bermingham, Director, FIU
Mark Denton, Chair, ACSP
John Atherton, Representative, ACSP
Graeme Snape, Chair, AICP
Jon Barwood, Committee Member, FPIBA
Dave Dobbie, IoM Constabulary
Michael Crowe, CEO, Finance Isle of Man
Julian Lalor-Smith, Deputy Chief Executive, DHA
Dani Kelly, Head of Financial Crime Barclays
Jon Whiting, IOMSCA Representative
Elisabeth Rattigan, Acting Director, FIU
Charles Garside, RICS, IOM Estate Agents Association
Dougie Elliot, Chair, APSP
David Griffin, Director of Enforcement, IOMFSA
David Baker, FIU Representative
Mark England, Risk Manager, IoM Post
Juan Moore, CEO IoM Law Society
Lisa Karran, eGaming MLRO Forum
Susan Preskey, IoD Committee
Sandra Skuszka, Collector, Customs & Excise
Adam Killip, Representative, IOMCA
Claire Cope, Chair, MIA Compliance
Nathan Holden, CISI Committee Member
Dave Corteen, GSC Representative

Apologies: Sinead O'Connor, Representative, IoMCA
Chris Wilson, IoM Crypto Currency
Bill Mummery, Chamber Director, Celton Manx IOM
Helen Ault, Director, Licensing & Compliance GSC
Kurt Roosen, CEO, Manx ICT Association
Simon Pickering, Head of Financial Services, Dept. of Economic Development
Lucie Kennedy, Senior Officer, Customs & Excise

012/19 MINUTES OF AML/CFT ADVISORY GROUP MEETING HELD ON 27 FEBRUARY 2019

Having been previously circulated, the minutes of the AML/CFT Advisory Group ("the Group") meeting held on 27 February 2019 were agreed and signed by the Chair.

013/19 MATTERS ARISING FROM THE MINUTES

45/18 (a) Customs and Excise – Aircraft VAT

Ms Skuszka advised there was no additional information to report in this respect.

MINUTES

45/18 (b) TAX3 Committee

Mrs Ramsay confirmed that the final TAX3 Committee report had been circulated by the AML Policy Office in March 2019 so therefore this action is completed.

014/19 AML/CFT ADVISORY GROUP ACTIONS LOG 2019

Mr Gavin advised that a small number of items remain on the Actions Log which were discussed with the Group.

a) AOBO Working Group – Mr Griffin advised that the IOMFSA had considered a FATF paper related to this subject however the paper raised several questions as it contradicts what is said in the FATF Recommendations. The IOMFSA believe further guidance from FATF is required and that they will keep a watching brief on this; the working group will re-convene in due course.

**Action
IOMFSA**

b) National Risk Assessment review – Mrs Ramsay explained that the NRA was progressing well and that a large part of the report is now in 'first draft' form with just a few sections left to complete. The Policy Office will continue to work with and coordinate with stakeholders, the Communications Unit and other interested parties as required to finalise the format and appearance of the NRA to ensure it is published in 2019.

c) Digital ID Working Group & Guidance Literature to Industry – Mr Griffin advised that work on the AML/CFT Handbook is now underway following the introduction of the three new AML/CFT Codes; coming into effect on the 01 June 2019. The IOMFSA will initially address areas not previously captured in the Handbook, such as life assurance and introduced business. Once the new areas have been completed, the focus will turn to redrafting the current guidance material; the Digital ID working Group will be picked during this process.

**Action
IOMFSA**

015/19 AML/CFT ADVISORY GROUP REVIEW

Mr Gavin spoke to his paper regarding a review of the AML/CFT Advisory Group. He advised that the Group meeting has ran in its current format for just over three years and so to ensure the meetings remain effective, the Policy Office has constructed a short survey designed to obtain the views of Group members in respect of the topics discussed, the frequency and overall assessment of the Group meetings.

Mr Gavin added that a link to the survey would be circulated to members by close of business Friday 14 June 2019 and should take no more than ten minutes. The deadline for submissions being the 09 August 2019, allowing 8 weeks for members to complete.

016/19 TRADE BASED MONEY LAUNDERING

Mr Baker delivered a short presentation to the Group regarding the methods and trends to be vigilant for in respect of Trade Based Money Laundering.

017/19 NATIONAL RISK ASSESSMENT – UPDATE

Mrs Ramsay reiterated her earlier comments in relation to the National Risk Assessment and that the aim of the Policy Office is to ensure that a revised and updated NRA is published in 2019.

MINUTES

018/19 DRAFT ORDER UNDER POCA CONCERNING 'TIPPING OFF'

Mr Heckles spoke to his paper regarding the changes made to the original version of the Proceeds of Crime Act (Compliance with International Standards) (No.3) Order 2019 in respect of tipping off, that was consulted upon in March 2019.

Mr Heckles advised, following consultation with industry it was decided that the original version of the Order should not be proceeded with as drafted. One of the reasons being that the sections regarding the "Super SAR", which had been taken from the UK POCA 2008, was too complicated to follow and difficult to understand; this has been removed from the Order.

Mr Heckles added that other provisions have however been included in the new draft. These sections allow disclosures to be made to another member of the same financial group or to another institution without committing a tipping-off offence, if certain conditions are met; the financial group is situated in a country or territory prescribed by the Department of Home Affairs.

Mr Heckles advised that the current requirement in POCA is that such prescription can only be made by means of an Order or Code which causes practical problems of implementation. It is therefore proposed to include sections into the revised Order, which would amend POCA so that the DHA can prescribe the countries or jurisdictions by maintaining a List on its website; List D.

Mr Heckles added that the draft Order was attached to his paper and he would be grateful if members could communicate any comments in respect of the proposed amendments to POCA and ATCA to the Policy Office; the consultation period being six weeks.

019/19 LIST C & D COUNTRIES METHODOLOGY

a) List C Countries

Mr Heckles explained to the Group that "List C" is a list specifying countries which are considered to have an AML/CFT regime of equivalent standard to that of the Isle of Man. The list enables Financial Institutions and Designated Businesses to use various concessions in the AML/CFT Code's when entering into or engaged in business relationships, in respect of customer identification.

Mr Heckles added that the current list, which is owned by the DHA, has not been updated for some time and no official methodology for its content had ever been established. Therefore the Policy Office has developed a formula that will be used to determine whether a country is to be included on List C and considered equivalent. Going forward the Policy Office will take over responsibility for notifying when and how List C should be updated.

The methodology for selection will consist of the following countries; - the UK; Crown Dependencies; EEA members; those countries and jurisdictions that have had a Mutual Evaluation Report published after assessment under the latest round by international bodies and have Largely Compliant or Compliant markings for 25 or more technical ratings. In addition countries who do not meet any of those definitions and have not had a recent Mutual Evaluation carried out but are currently on List C, will remain so until such time as they are assessed and it can be established if they have 25 or more positive ratings.

MINUTES

Mr Heckles advised that a large number of countries have stepped away from a specific list as this was not an absolute requirement of the FATF standards. An option was allowed to leave the evaluation of equivalence status to the financial institution to make on a risk based approach. However, the IOM's financial institutions and DNFBS expressed their desire for a central list to be maintained and the regulators agreed to this approach and have included it in the new Codes. Therefore a transparent methodology to maintain the list needs to be agreed.

b) List D Countries

Mr Heckles explained to the Group that in addition to the provisions set out in the newly drafted Proceeds of Crime Act (Compliance with International Standards) (No3) Order 2019 there was now a need for the DHA to proceed to prescribe a list of countries or jurisdictions as required by the Proceeds of Crime Act.

Mr Heckles added that it was intended to refer to this prescription as "List D" and the Policy Office would formulate a methodology prescribing who went onto the list and would advise DHA when to include or delete entities from "List D" in the future.

The methodology would likely consist of those countries or jurisdictions who are the following:- the UK; Crown Dependencies; EEA members; and those countries which in the current round of Mutual Evaluations get a Largely Compliant or Compliant rating, for Recommendations 20 (Reporting of STRs) and Recommendation 21 (Tipping-off and confidentiality). It had not been decided as yet as how to evaluate the position of those countries or jurisdictions that had not been recently evaluated by an international body and so further consideration is required in this respect.

020/19 INFORMATION ON MONEYVAL 2ND ENHANCED FOLLOW-UP REPORT

Mr Heckles advised that the 2nd Enhanced Follow-up Report was submitted to MONEYVAL at the beginning of June 2019. Part II of the report that encompasses the Technical element will be discussed at the MONEYVAL Plenary in July 2019.

Mr Heckles added that through the Enhanced Follow-up process, the IoM has requested that five of the FATF Recommendations rated as Partially or Largely Compliant during the Island's Mutual Evaluation inspection, be re-rated. Following several conversations and detailed written submissions, the MONEYVAL Secretariat will be recommending to the Plenary that the IoM be upgraded in four of the five markings.

Mr Heckles advised that should a criterion change for any of the 40 FATF recommendations after an evaluation has taken place a country is also reassessed in those areas as part of the follow-up process. On this occasion for the IoM, there would be four such Recommendations to be considered by the Plenary in July. Again, after detailed submissions made by the IoM, the Secretariat would be making positive recommendations to the Plenary, that all the four ratings for the Recommendations should remain as currently rated.

MINUTES

021/19 UPDATE ON COMPLIANCE ENHANCING PROCEDURES

Mr Heckles advised that the Policy Office has submitted a strong report to MONEYVAL in order to evidence the progress we had made towards addressing the three outstanding issues. The report also requests that the IoM be permitted to leave the CEPs process. However, at the time of the meeting no response had been received from MONEYVAL in respect of the CEPs report.

022/19 UPDATE ON IOMFSA AML/CFT CODE & HANDBOOK & AML/CFT (GAMBLING) CODE

Mr Griffin advised that the IOMFSA AML/CFT Code had come into effect as of the 01 June 2019 with no issues and that the IOMFSA are currently working on the accompanying guidance; initially the IOMFSA will address issues that have not been captured in the Handbook previously and then they will move on to updating the existing material.

Mr Corteen also advised that the AML/CFT (Gambling) Code came into effect on the 1st of June without any issues and they have begun working on the guidance material.

023/19 INDUSTRY ROUND TABLE

Mrs Ramsay opened the meeting up to industry members to discuss any issues they had however no comments were forthcoming.

Date of next meeting: 28th November 2019

The meeting closed at 3.00pm


.....
Head of AML/CFT Policy Office, Cabinet Office

12 June 2019
.....
Date

