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MINUTES OF THE MEETING OF THE AML/CFT ADVISORY GROUP HELD AT 10.00AM, TUESDAY 1 DECEMBER 2020 IN THE IOMFSA FIRST FLOOR BOARDROOM, FINCH HILL HOUSE

Present: Karen Ramsay, Head of AML/CFT Policy, Cabinet Office (Chair)
Paul Heckles, AML/CFT Advisor, Cabinet Office (Minutes)
Sean Gavin, AML/CFT Policy Manager, Cabinet Office
Elisabeth Rattigan, Lead Legal Officer, International Co-operation & Asset Recovery Team
Iain MacMillan, Operations Manager, Financial Intelligence Unit
Helen Ault, Director, Gambling Supervision Commission
Lucie Kennedy, Team Leader – Legislation & Policy, Customs & Excise
Ashley Whyte, Senior Manager – AML Unit, IOM Financial Services Authority
Lucy Hendy, Assistant Manager – AML Unit, IOM Financial Services Authority
Dave Dobbie, Detective Chief Inspector – Economic Crime Unit, IOM Constabulary
John Atherton, Chair, Association of Corporate Service Providers
Graeme Snape, Chair, Alliance of Isle of Man Compliance Professionals
Charles Garside, Chair, IOM Estate Agents Association
Dougie Elliott, Chair, Association of Pension Scheme Providers
Juan Moore, CEO, IoM Law Society
Jenny Hedges, Compliance Manager, Amber Gaming
Kath Quayle, IOM Society of Chartered Accountants
Claire Cope, Chair, Manx Insurance Association Compliance
Katherine Garrood, Chair, IOM Wealth & Fund Services Association
Bill Mummery, Director, Chamber of Commerce
Sinead O'Connor, Representative, IoM Captive Association
Tim Boles, President, Chartered Institute for Securities & Investments
Gerald Chase, Financial Options, Financial Planners & Insurance Brokers Association

Apologies: Chris Wilson, Head of Compliance, CoinCorner
Julian Lalor-Smith, Deputy Chief Executive, DHA
Jon Whiting, IOM Society of Chartered Accountants Representative
Phil Hunkin, Director, Financial Intelligence Unit
Linda Watts, Director, International Co-operation & Asset Recovery Team
Andy Gosnell, Senior Risk & Compliance Officer, IOM Post Office

08/20 MINUTES OF AML/CFT ADVISORY GROUP MEETING HELD ON 3 MARCH 2020

Having been previously circulated, the minutes of the AML/CFT Advisory Group ("the Group") meeting held on 3 March 2020 were agreed and signed by the Chair.

09/20 MATTERS ARISING FROM THE MINUTES

022/19 & 002/20 MONEYVAL Review Report

Mrs Ramsay, advised that the report had now been published and was intended as a record of the progress made against the recommendations in the mutual evaluation report. It was hoped that the document would also be useful for industry. Mrs Ramsay invited anybody who had not been able to access a copy to contact Sean Gavin.

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010/20 AML/CFT ADVISORY GROUP ACTIONS LOG 2020

The actions log had previously been circulated. There was no discussion on the log as the item on Digital ID Working Group was to be discussed later in the meeting.

011/20 MONEYVAL & FATF UPDATE

Mr Heckles advised that because of the COVID pandemic all international bodies had suspended Mutual Evaluations. As a trial, MONEYVAL was currently carrying out evaluations on San Marino and the Vatican. The IOM had provided one assessor for the San Marino evaluation. The inspection involved some assessors on-site and some working remotely. If the trial is deemed successful, FATF and the other regional bodies will commence their scheduled evaluations shortly.

The most recent MONEYVAL plenary, which had been held remotely, had considered the IOM's third enhanced follow-up report. On technical ratings, the IoM was re-rated upwards for Recommendation 21 (Tipping-Off) from Largely Compliant to Compliant; downwards for Recommendation 15 (New Technologies) from Compliant to Largely Compliant, whilst Recommendation 23 (DNFBPs) remained unchanged. Mr Heckles explained that the downgrading for Recommendation 15 should not be viewed as a disappointing result. FATF had added in a large amount of new requirements regarding Virtual Asset Service Providers (VASPs). The IOMFSA already had in place a large number of requirements for VASPs so was only dropped one grade and remained in the positive range of markings. All other jurisdictions re-rated to date against new Recommendation 15 had fallen into negative markings. The one area where the IOM is now deficient concerns wire transfer requirement and VASPs. This will be reviewed in due course.

Mr Heckles also explained that the IOM had raised a query on Recommendation 23, involving an interpretation issue with the FATF Methodology. MONEYVAL decided to delay re-rating that Recommendation until the interpretation issue had been raised with the FATF. FATF has now debated the issue and decided that the Methodology is unclear and requires redrafting. MONEYVAL will address this issue at the plenary in April 2021; the IoM hopes to be upgraded from Partially Compliant to Largely Compliant, for Recommendation 23 thereby giving the Island positive ratings for all 40 FATF Recommendations.

Mr Heckles further reported that MONEYVAL had also removed the IOM from its Compliance Enhanced Reporting procedures. A decision is expected in April 2021 as to whether the plenary will also remove the IoM from enhanced reporting and move the Island into the ordinary reporting procedure.

Mr Heckles explained how the FATF had also recently held a remote plenary. Various strategic issues were discussed; decisions on the strategic review would be taken at the FATF plenary scheduled for June 2021. However, it was clear that there is likely to be another round of Mutual Evaluations once this round finishes. The evaluations themselves will be shorter, focussing on issues identified as deficient in the previous round. There will be no major rewriting of the current FATF Recommendations, only selected amendments, one of which is expected to be in Recommendation 24 relating to beneficial ownership. It seems there will be no re-rating process for the effectiveness ratings in this round of MERS owing to

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problems in resourcing such a process. It seems the aim is that the next round will be conducted in a much shorter timescale, negating the need for re-rating.

Mr Heckles advised that any further amendments to the FATF Recommendations or Methodology will not lead to re-ratings of current markings. This includes the recent amendments to Recommendations 1 and 2, where significant inclusions have been made relating to proliferation. The changes will apply in the next round of Mutual Evaluations.

012/20 SANCTIONS – NEW GUIDANCE & REGULATIONS POST-TRANSITION

Mrs Kennedy updated the meeting regarding how the IOM will deal with international sanctions when the UK fully exits the EU. The IOM will continue to align itself with the UK sanctions regime. The UK will bring in its own regulations and new guidance to support it, whilst issuing its own sanctions list. Legislation is going to December Tynwald to fully apply the remaining UK regulations to the Manx regime. Some regulations have already been incorporated. The first UK sanctions list will apply on 1st January 2021, which we will adopt.

Mrs Kennedy advised that new IOM guidance has been published on the government (Customs) website and has been circulated on the IOMFSA newsfeed. She recommended to members to subscribe to the RSS feed for regular sanctions updates and that, if their firms used sanction screening software, they should make sure that it updates using the UK sanctions list. The UK/IOM lists are expected to mirror the EU sanctions list for the most part.

Ms O'Connor asked if specific terrorism Orders would still be extant. Mrs Kennedy explained that the current Orders would be replaced by three new UK Regulations covering terrorism issues.

013/20 COVID 19 – FINANCIAL CRIME RISKS

Mr MacMillan reported that at the start of the pandemic the FIU had issued a risk assessment relating to financial crime linked to COVID. As months had passed and other documents were published by jurisdictions or international bodies, the IOM publication had been refined. So far there had been little reporting of linked financial crimes involving the IOM. However, he advised that financial institutions should take particular care in monitoring customer financial activities against their normal undertakings. He also advised that instances of corruption involving the awarding of contracts in respect of the purchase of Personal Protection Equipment are starting to arise. So this was an area to watch out for in the future when carrying out due diligence.

014/20 AML/CFT CODE & GAMBLING CODE – GUIDANCE UPDATE

Ms Ault advised that the new GSC guidance was drafted and was currently out with industry for comment. It was different from the current guidance in that it covered both terrestrial entities (casino and bookmakers) as well as the on-line gambling industry. Meetings are being scheduled with representatives from terrestrial gambling businesses as well as the on-line Gambling AML Forum to discuss the draft guidance. Ms Ault highlighted that the new guidance:

- Reflected the new 2019 issued Code.
- Included terrestrial gambling within its scope.
- Was designed to be much easier to use.

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- Contains hints and best practices not just on AML/CFT & sanctions issues, but also on topics such as problem gambling and GDPR.
- Updates the ID verification requirements taking into account the latest FATF Guidance on digital ID.

Ms Ault informed the meeting that due to the pandemic a number of onsite supervisory visits had been delayed. However, the GSC had used the time to update and improve its processes and templates. She noted that there was a large increase in the number of licence applications, partly due to movement away from other jurisdictions experiencing regulatory and other problems. This has resulted in the GSC seeking an increase in its headcount for 2021. Ms Ault also added that, subject to Tynwald agreeing a Transfer of Functions Order at the December sitting, the GSC would be the interim regulator for the proposed new medicinal cannabis industry. An announcement regarding this is expected imminently.

Mrs Whyte updated the meeting for the IOMFSA. She explained that the IOMFSA is still focussing on producing its new guidance. All the sector specific guidance had been removed from its website. 17 out of the original 20 guidance documents have now been reinstated after being rewritten and updated. It is hoped that the remainder will be reinstated by January 2021.

Regarding the main Handbook, Mrs Whyte explained it had been subject to a full rewrite rather than amendment to refresh its style and layout as well as its content to reflect the new AML/CFT Code. There will be a core part dealing with those areas that the IOMFSA considers essential in order to meet the requirements of the Code. This will be supplemented with, more detailed sections on areas such as CDD, introduced business, source of wealth/funds, digital ID etc. These sections will also include suggestions regarding best practice. Links will be provided to other department sites where areas crossover such as SARs/STRs. Instead of reproducing requirements in the Handbook, links will take the reader directly to the source department's website. Mrs Whyte noted that the IOMFSA does not generally consult on its guidance but it was always open to receive any comments or observations from industry for consideration once it is published. She added that the detailed sector specific guidance had been through a consultation process with the relevant professional representative body, before finalisation.

Mrs Whyte reported that the Digital Working Group had held some meetings with a view to fact-finding and seeking industry's views. Based on this work, and looking at the latest international publications and standards, the IOMFSA had written into the Handbook related guidance. It was therefore not proposed that the Working Group would reconvene at this time.

Mr Snape asked if the guidance would cover electronic KYC. Mrs Whyte said that it did. Mr Snape also asked if the IOM authorities were looking at the EU 6th Money Laundering Directive. This was confirmed; however, the review indicated that, as the IOM's money laundering offences applied to any crime, rather than a list of predicate offences, the IOM was already in compliance with much of the 6 MLD requirements. Mrs Ramsay noted that the main thrust of 6 MLD was to deliver a level of harmonisation between Member States in key areas e.g. requirements for a corporate money laundering offence. The meeting was reminded that the IOM has never been obliged to implement the requirements of the EU MLDs.

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Ms Quayle asked if the regulators worked together on the guidance. Ms Ault advised that the GSC and IOMFSA did work very closely on the AML/CFT Codes but not the guidance, as these they need to be tailored to the nature and risks of the respective industries.

Mr Atherton acknowledged the IOMFSA's decision not to consult on the guidance but asked whether references to the source information used to draft the guidance would be included. Mrs Whyte confirmed the IOMFSA does provide links within its guidance to source material such as FATF Papers however; this would be more prominent in the new guidance.

015/20 BENEFICIAL OWNERSHIP – UPDATE

Mrs Ramsay reported that the Beneficial Ownership (Amendment) Bill is expected to be introduced into the House of Keys on the 8th December. She highlighted that it is a relatively short Bill mainly aimed at addressing remedial points from the MER; it does not make any changes with regard to the public register. The government commitment to introduce a public register of the beneficial ownership of companies remains and the AML Policy Office is co-ordinating this work. A meeting of the Department for Enterprise (DfE) focus group will be arranged for early 2021, and it is anticipated that a consultation process will commence in late Spring or early Summer 2021.

Mrs Ramsay advised that Jersey has recently passed enabling legislation in relation to public registers, but this has not yet been implemented. The UK has also published a lot of detailed material resulting from its consultation exercise on the subject of reform of Companies House, including the register of Persons of Significant Control (PSC). Mrs Ramsay noted that the Isle of Man continued to monitor international debate around centralised and public registers and that this was an area of ongoing focus for international bodies (most recently the UN) as well as non-governmental organisations (NGOs). The FATF was also looking at possible amendments to Recommendation 24 on beneficial ownership.

016/20 INTERNATIONAL CO-OPERATION (PROTECTION FROM LIABILITY) BILL 2020

Mrs Ramsay explained that the Bill had just completed its public consultation stage. The aim of the Bill was to protect government from facing liability claims, which could amount to substantial sums, when it had acted in good faith on behalf of foreign jurisdictions. International cooperation was a cornerstone of fighting financial crime and it was important that there was no impediment to realising this aim. The Bill aims to protect the IoM taxpayer from facing large compensation costs. Remediation should be directed to the foreign jurisdiction involved.

Mrs Ramsay also informed the group that a government-working group had been established to look at making amendments to the Proceeds of Crime Act 2008. Law enforcement in particular was experiencing problems with parts of the legislation which, given its age, was unsurprising. Having discussed various options, the intention was to seek agreement to amend specific parts of the Act rather than totally replace it. Any proposals would be fully consulted on with industry.

017/20 ANTI-BRIBERY AND CORRUPTION PROJECT

Mrs Ramsay advised that the AML Policy Office had been considering the measures in place in the IoM regarding bribery and corruption, and looking at responses in

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other jurisdictions. The IoM has relevant legislation in place concerning bribery and whistleblowing for example; however, there are areas, which would benefit from reviewing. The Cabinet Office is seeking resources to advance this work, which would engage industry as well as government and civil society. Mrs Ramsay invited anyone with interest in the subject to contact her or Mr Gavin.

018/20 INDUSTRY ROUND TABLE

Mr MacMillan updated the meeting on recent outreach activity by the FIU. The FIU had re-vitalised its programme and as well as industry, it was now delivering training to other government departments on topics such as making SARs/STRs. Officers were also visiting schools to educate pupils e.g. on matters such as inadvertently becoming "money-mules". They have received excellent engagement from the pupils and positive feedback from teachers. He also reported that the FIU had conducted a number of webinars in the summer. Mr MacMillan invited the group to forward to the FIU any suggestion for new topics that they would like them to cover in their outreach programme, and to identify any areas where they feel the FIU could do better. The FIU will seek to tailor its material accordingly.

Mr Dobbie reported on the activities of the Economic Crime Unit. He noted that it had remained business as usual during the pandemic, except for a decrease in illegal border activity and an increase in postal smuggling. A consequence of the restrictions in place on travel effecting how criminals operated. He did highlight that cases of vulnerable persons being used to move money were increasing and requested industry to be particularly vigilant for this when doing CDD.

019/20 ANY OTHER BUSINESS

Mr Gavin said that the issue of the publication of members' names in the minutes and GDPR had arisen again. It was agreed that in future a statement agreeing to the publication of names be included on the bottom of the attendance form. Members could then indicate if they had any personal issues with publication of their names. Ms O'Connor made the point that as a number of members circulated the minutes around the groups that they represented, this should also be mentioned and covered in the statement.

Mr Gavin to action

DATE OF NEXT MEETING

The date of the next meeting will be circulated by Mr Gavin

The meeting ended at 11:25am



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Karen Ramsay, Head of AML/CFT Policy, Cabinet Office (Chair)

12/5/21
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Date