

## MINUTES

### MINUTES OF THE MEETING OF THE AML/CFT ADVISORY GROUP HELD AT 14:00PM, TUESDAY 21<sup>ST</sup> NOVEMBER 2023 IN THE KING ORRY ROOM, CABINET OFFICE

#### **Present:**

Sue Anderson, Operational Supervisor, Financial Intelligence Unit (FIU)  
Jon Barwood, Representative, Financial Planners & Insurance Brokers Association (FPIBA)  
Pat Brogan, Representative, Association of Corporate Service Providers (ACSP)  
Tristan Caley, Senior Manager AML/CFT Division, Financial Services Authority (FSA)  
Richard Carter, International Cooperation Officer, Income Tax Division  
Dougie Elliott, Representative, Isle of Man's Association of Pension Scheme Providers (IOMAPSP)  
Leslie Foster, Representative, IOM Society of Chartered Accountants (IOMSCA) (via Teams)  
Katherine Garrood, Representative, Isle of Man Wealth & Fund Services (IOMWFS)  
Anna Grigorova, AML/CFT Policy Co-ordinator, Cabinet Office (CO) (Minutes)  
Paul Heckles, AML/CFT Advisor, Cabinet Office (CO) (Chair)  
Erica Humphries, Financial Crime Strategy and Policy Lead, Cabinet Office (CO)  
Lucie Kennedy, Legislation & Policy Manager, Customs & Excise (via Teams)  
Nicola Libreri, Senior Inspector, Gambling Supervision Commission (GSC)  
Oksana Lytvyn, Representative, IOM Gambling AML Forum (IOMGAMLF) (via Teams)  
Claire Milne, Representative, Institute of Directors (IoD) (via Teams)  
Juan Moore, Representative, Chartered Governance Institute (CGI)  
Chirlene Van Loggerenberg, Representative, Amber Gaming (AG)  
Sinead O'Connor, Representative, Isle of Man Law Society (IOMLS) & Isle of Man Captive Association (IOMCA)  
Junona Ostache, Representative, Cube Corp  
Sarah Ubiera Baez, Representative, Cube Corp  
Shannon Reid, AML/CFT Policy Manager, Cabinet Office (CO)  
Alexander Sapunov, Technical Specialist, Gambling Supervision Commission (GSC)  
Ian Spence, Head of AML/CFT Division, Financial Services Authority (FSA)  
Nicola Skillicorn, Deputy Assessor, Income Tax Division (ITD)  
Rebecca Stewart, Director of Crown & External Relations, Cabinet Office (CO)  
Kevin Taylor, Representative, The Isle of Man Insurance Association (IOMIA) (via Teams)  
Emma Wild, Senior Analyst, Financial Intelligence Unit (FIU)

#### **15/23 APOLOGIES / INTRODUCTIONS**

Clair Barks, DHA Deputy Chief Officer, Chief Executive's Office  
Jed Bibby, Superintendent/Head of Financial Crime, Isle of Man Constabulary  
Audrey Butterworth, Representative, Bankers Association  
Kirsty Knight, Representative, Amber Gaming  
Bill Mummery, Director, Chamber of Commerce (CoC)  
Elisabeth Rattigan, Legal Officer, International Co-Operation and Asset Recovery Team (ICART), AGC's  
Kathryn Simms, Head of AML/CFT Policy Office, Cabinet Office (CO)  
Linda Watts, Director, International Co-Operation and Asset Recovery Team, AGC'S

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The Chair welcomed the members of the AML/CFT Advisory Group which was then followed by the introduction of the new Crown & External Relations Director.

The Crown & External Relations Director thanked the Chair for the introduction. She highlighted the importance of the work that the Government and Industry do to prepare for MONEYVAL and improve the Island's AML/CFT Framework.

### **16/23 MINUTES OF AML/CFT ADVISORY GROUP MEETING HELD ON 19<sup>th</sup> SEPTEMBER 2023.**

Having been previously circulated, the Minutes of the AML/CFT Advisory Group ("the Group") meeting held on 19<sup>th</sup> September were agreed by members with a small grammatical error to be corrected. The Chair stated that he would sign a clean version of the Minutes after the meeting. These would be then uploaded to the AML/CFT Policy Office page on the IOM Government website.

### **17/23 MATTERS ARISING FROM THE MINUTES**

No matters arising from the Minutes.

### **18/23 FATF/MONEYVAL UPDATE**

#### Plenary Updates

The Chair advised that following on from the recent FATF Plenary held in October, there was some changes to the grey list - Bulgaria had been added and Albania, Cayman Islands, Jordan and Panama had been taken off the grey list. He also advised the following:

- Further updates with regards to the possibility of Gibraltar coming off the grey list would be presented at the next FATF Plenary meeting in February;
- The Chair added that Indonesia was now accepted as the 40<sup>th</sup> Jurisdiction to join the FATF membership;
- Jersey's Mutual Evaluation report would be issued in May following the May FATF Plenary;
- Guernsey on-site visit was scheduled for spring 2024;
- FATF had 2 Public Consultations; Recommendation 8 – NPO and Recommendation 25;

#### Public Consultation - FATF Risk-Based Guidance on Recommendation 25 (CO)

The Chair said that at the February 2023 Plenary, the FATF adopted amendments to Recommendation 25, and agreed to immediately start the work to update guidance on Recommendation 25, with a view to help support the implementation of the new requirements.

The FATF now welcomes comments to its updated Risk-Based Guidance to Recommendation 25 on Beneficial Ownership and Transparency of Legal Arrangements. AML/CFT Policy Office reviewing and welcome any views from all stakeholders.

Further to the above changes the new Country lists had been also updated and the AML/CFT Policy Office had amended the DHA List to reflect the changes and would be uploaded online imminently.

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**ACTION: The AML/CFT Policy Office to circulate the FATF guidance, welcoming comments on specific issues such as**

- **Whether there are any other purposes of express trusts beyond what is set out in the guidance;**
- **Other potential scenarios concerning beneficiaries that should be included;**
- **Activities to be included in definition of trust administration;**
- **Suggested approaches to identify, assess and mitigate ML/TF risks linked to different types of legal arrangements.**

### 19/23 SANCTIONS UPDATE

#### Sanctions Bill 2023

The Policy & Legislation Manager, Customs & Excise presented an update on the Sanctions Bill and what progress was made so far. She started by stating that the current framework was not clear; not easy to find, lacked certain powers; and that staff resources were inefficient. She continued by saying that the Sanctions legislation was not contained under one Act but spread over 2 Acts of Tynwald and 1 Act of UK Parliament. The Bill would also make necessary amendments to the Terrorism and Other Crime (Financial Restrictions) Act 2014 to keep legislation up to date with international standards.

- Other key points about the Bill: It would be "Futureproof";
  - Providing a modern and flexible legislative framework to be able to implement United Kingdom sanctions measures in a timely manner.
- Make sanctions legislation easier to locate and follow;
- Continue to meet international obligations concerned with preventing money laundering, terrorist financing and nuclear proliferation financing; and
- Provide for the introduction of civil penalties as an option for financial sanctions offences, rather than just criminal penalties

Current progress of the Bill:

- It had been approved in Legislative Council;
- One further approval stage was required in House of Keys, who were due to sit on 28th November 2023;
- Ministry of Justice approval would be required followed by Royal Assent;
- It was estimated that the Act would come into operation by the end of January 2024; and
- One set of Regulations would be made under the Act – a draft example was available on [Tynwald website](#).

#### UK Court Case: "Mints v PJSC judgment" - Ownership and Control

The Policy & Legislation Manager, Customs & Excise had circulated the documents to the members and provided an update during the meeting. She talked about the interpretation of the "ownership and control" regulation in the Russia Sanctions regime where appeal Judge concluded PJSC National Bank Trust could be deemed to be controlled by Mr Putin and/or Ms Nabiullina (Governor of Central Bank of Russia) – both designated persons.

She further said that the UK Government had issued Guidance on 17 November and highlighted the following:

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- There is no presumption that a private entity is controlled by a designated person simply because entity is based or incorporated in a jurisdiction in which that person has a leading role in economic policy or decision-making;
- Further evidence is required to demonstrate that the person exercises control over the entity; and
- The UK government does not consider that President Putin exercises indirect or de facto control over all entities in the Russian economy merely by virtue of his occupation of the Russian Presidency.

She concluded saying the impact of the above recent changes for the Isle of Man was uncertain, particularly because it relates to a Russian bank, but it did open the question about the ownership and control and how this would be managed going forward.

The Chair highlighted that in this particular case the assessments used 50% shareholding when determining the ownership within the structure and queried the source of the % threshold and who determined that.

The Policy & Legislation Manager, Customs & Excise confirmed that the threshold had been determined prior to Brexit and remained the same after UK leaving the EU.

Following on from a query raised by the Representative of Institute of Directors regarding whether the Civil Penalty Regime would be similar to the UK Regime, the Policy & Legislation Manager, and Customs & Excise confirmed that this would be the case. The Civil Penalty regime would effectively mirror the Monetary Penalties Guidance that OFSI (Office of Financial Sanctions Implementation) had introduced in UK and Isle of Man would have its own guidance.

### **20/23 RISK ASSESSMENTS, STRATEGIES & POLICIES**

#### Financial Crime Strategy Update

The Financial Crime Strategy and Policy Lead, Cabinet Office confirmed that the Financial Crime Strategy had been submitted to the register of business and was all on track to be laid before Tynwald at its 12<sup>th</sup> December meeting. The document would then be published and there would be also a National Action Plan which would be published around the same time. She also welcomed any comments or feedback when the documents were published.

A report of the 2021-2023 Financial Crime Strategy would also be published in due course.

#### National Risk Assessments/PF Risk Assessments

The Financial Crime Policy & Strategy Lead said that work had commenced to draft the National Risk Assessment in respect of the Island's exposure to proliferation financing. The AML/CFT Policy Office was at stage where seeking to understand the levels of awareness across the sectors and also some of the mitigations that are in place. A questionnaire would go out to Industry and separate contact had already been made with sectors mainly manufacturing and STEM to gather further intelligence, and whether further training and awareness would need to be rolled out to Industry. She also welcomed members for an input or if any of the organisation representatives felt that a further guidance and outreach would be beneficial for their respective sectors.

The Royal Services Institute Methodology was being adopted for the PF Risk Assessment.

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The Representative of the ACSP asked if there was an expectation for a separate risk assessment on proliferation to which the Financial Crime Strategy & Policy Lead clarified by saying that there were no such expectations to do a separate risk assessment on proliferation for Industry.

The Representative of IOMLS and IOMCA queried that when the Code states that the Business Risk Assessment had to take into account the National Risk Assessment would this include the PF Risk Assessment when published. She stated that it would be helpful for guidance from the Regulators to make it clear that 'the National Risk Assessment' would include any risk assessment that were published so that industry members will know that the Business Risk Assessments needs to take all such risk assessments into account.

The Senior Inspector, GSC said that there was no requirement for Industry to have a separate risk assessment on proliferation and the assessment information would be proportional to each individual business however, the guidance could be revised to clearly stipulate the new approach.

The Representative of CGI asked if the sectorial risk assessments would be a separate document from the National Risk Assessments.

The Chair clarified that the National Risk Assessment would be one document, underpinned by individual topical and sectorial risk assessments.

### **21/23 ISLE OF MAN GOVERNMENT AML/CFT OUTREACH & ENGAGEMENT**

The AML/CFT Policy Manager provided an overview, stating that the AML/CFT Policy Office had been attending meetings of professional bodies to provide an overview on the activities of the AML/CFT Policy Office; talk through the cross-government programme of work to improve effectiveness; and open up lines of dialogue with the private sector.

Sessions had been beneficial to the AML/CFT Policy Office – liaising with industry, receiving valuable feedback and raising important questions.

The AML/CFT Policy Office is continuing to meet with professional bodies and is happy to meet regularly to ensure industry is kept up to date.

The AML/CFT Policy Office are seeking funding to undertake further outreach activities. For now, they are looking to establish regular webinars, in line with what the FSA currently do, but involving all agencies involved in the AML/CFT framework.

If industry wish to provide input on webinars, please get in touch. Members were also free to suggest external speakers / experts we can seek to secure for the Island.

### **22/23 ANY OTHER BUSINESS**

#### Crypto Asset Reporting Framework

The Deputy Assessor, ITD said that following on from the *OECD* (Organisation for Economic Cooperation and Development) Council adopting a new international standard around the automatic exchange of information; a new crypto-asset reporting framework was being introduced. The Isle of Man committed to be early adopters of this standard and was working towards implementing the standard by 2027. The Income Tax Division was taking that work forward and would seek input for new members to join AEOI (Automatic Exchange of Information) Working Group from the crypto sector. She welcomed members who were interested in joining that group to assist and to look at what this framework means for the Island, and asked if anyone would like to volunteer.

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### GSC Structure Update

The Senior Inspector of GSC advised that following on from the Head of GSC's AML/CFT and Policy Division going on maternity leave, she would be stepping in on her behalf. The new Technical Specialist would be attending the AML/CFT Advisory Group meetings and other Task & Finish Groups within the Government. He was currently working on implementing the new Risk Assessments onto the new risk analysis tool, STRIX, jointly with the FSA and he was also working on the PF Risk Assessment. As a result of these changes, some lower lever junior inspector and officer positions had become available so there would be a further recruitment drive within GSC in due course.

### FSA Structure Update

The Head of AML/CFT Division, FSA advised members regarding the new risk analysis tool Strix and that there was a webinar available on the FSA's website for those who would like to learn more about the tool. The recorded presentation was available to view on the [Webinars section of the website](#).

He also mentioned that the FSA had almost filled all the intended new posts within AML/CFT Division. The FSA were recruiting a Head of Enforcement within the enforcement side.

AML Wednesdays were still up and running and AML Tuesdays were also introduced which would cover the Beneficial Ownership piece of work. Further information could be found on the FSA [LinkedIn page](#).

### FIU Terrorist Financing Update

The Senior Analyst, Financial Intelligence Unit advised that there had been some updates on Terrorist Financing via Themis following on from the recent developments in the Middle East.

### Other updates:

The Representative of CGI thanked the AML/CFT Policy Manager for the insightful presentation to CGI meeting which took place that week.

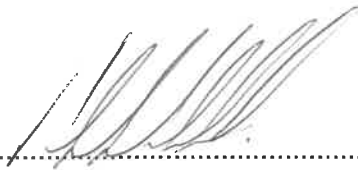
The Representative of the ACSP said that the Anti-Bribery and Corruption website had broken links and some information was no longer available to access.

The Financial Crime Strategy and Policy Lead, Cabinet Office said that she would look into this further and make sure that the website was updated as soon as possible.

### **14/23 Date of next meeting**

Thursday, 18<sup>th</sup> January, King Orry Room, Cabinet Office, 3rd Floor Government Offices, Bucks Road

**MINUTES**



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(Chair)

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2/2/2020

Date

