

SIGNED MINUTES

MINUTES OF THE MEETING OF THE AML/CFT ADVISORY GROUP HELD AT 10:00AM, WEDNESDAY 28 NOVEMBER 2019 IOMFSA GROUND FLOOR BOARD ROOM, FINCH HILL HOUSE, DOUGLAS

- Present:** Karen Ramsay, Head of AML/CFT Policy, Cabinet Office (Chair)
Paul Heckles, AML/CFT Advisor, Cabinet Office
John Atherton, Chair ACSP
Graeme Snape, Chair AICP
Sinead O'Connor, Representative IOMCA
Bill Mummery, Chamber Director, Celton Manx IOM
Julian Lalor-Smith, Deputy Chief Executive, DHA
Dani Kelly, Committee Member, IOD & IOMBA
Jon Whiting, Representative IOMSCA
Lucie Kennedy, Senior Officer, Customs & Excise
Susan Preskey, Committee Member, IOD
Nathan Holden, Committee Member, CISI
Katherine Johnson, Acting Chair, IOMWFSA
Phil Hunkin, Director, FIU
Iain MacMillan, Operations Manager, FIU
Kelly Mercer, Manager, IOMFSA
Sean Gavin, AML/CFT Policy Manager, Cabinet Office (Minutes)
- Apologies:** Jon Barwood, Committee Member, FPIBA
Dave Dobbie, IOM Constabulary
David Griffin, Director of Enforcement, IOMFSA
Chris Wilson, CoinCorner
Michael Crowe, CEO, Finance Isle of Man
Helen Ault, Director, Licensing & Compliance GSC
Simon Pickering, Head of Financial Services, Dept. of Economic Development
Charles Garside, RICS, IOM Estate Agents Association
Dougie Elliot, Chair, APSP
Juan Moore, CEO IOM Law Society
Claire Cope, Chair, MIA Compliance

024/19 INTRODUCTIONS

Mrs Ramsay introduced the new Director of the FIU, Mr Hunkin to the group; a round table of introductions followed from all members.

025/19 MINUTES OF AML/CFT ADVISORY GROUP MEETING HELD ON 21 JUNE 2019

Having been previously circulated, the minutes of the AML/CFT Advisory Group ("the Group") meeting held on 12 June 2019 were agreed and signed by the Chair.

026/19 MATTERS ARISING FROM THE MINUTES

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

013/19

Ms Kennedy advised that the yacht and aircraft VAT report had been published on Wednesday 16 October 2019 following an investigation by HM Treasury; the

SIGNED MINUTES

outcome of which was positive with the IoM having been found to have correctly implemented and administered UK & EU VAT law for yachts & aircraft.

Information on MONEYVAL 2nd Enhanced Follow-up Report 020/19

Mr Heckles advised the AML/CFT Advisory Group that an email had been circulated to the Group on the 21 October 2019 with information concerning the outcome of the discussion of the IoM's 2nd Enhanced Follow-up report, following the MONEYVAL Plenary in July 2019.

Mr Heckles added that he had now received the template for the IoM's 3rd Enhanced Follow-up report which will need to be submitted by the 31 January 2020. This report will address;

- i) the actions taken by the IoM to improve the remaining outstanding FATF Recommendation which is negatively marked, 'R23 DNFBP: Other Measures' in order that it may be considered for an upgrade;
- ii) the reassessment of 'R15 New Technologies', due to a number of changes to the recommendation that relate to emerging risks such as cryptocurrencies. The IoM was previously rated as Compliant for R15 in the MER.

Update on IOMFSA AML/CFT Code & Handbook 022/19

Ms Mercer advised that the IOMFSA AML/CFT Code had been in place since June 2019 and the IOMFSA were currently working on updating the accompanying guidance. Due to the amount of work, the authority is issuing individual sector specific guidance documents as and when they are completed.

Ms Mercer requested that any comments on the guidance material be shared with the IOMFSA.

027/19 AML/CFT ADVISORY GROUP ACTIONS LOG

Mr Gavin advised that he had spoken to the IOMFSA regarding action number 1 (AOBO working group) and action number 3 (Digital ID working group). Both items are currently on hold as the authority is monitoring developments following the publication of the latest FATF securities guidance and FATF draft guidance on digital ID. An introductory Digital ID meeting was held with volunteers from industry on the 07 November 2019; a follow up meeting is yet to be scheduled.

Mr Gavin advised that action number 2, NRA review, would be discussed as part of the agenda.

028/19 AML/CFT ADVISORY GROUP REVIEW

Mr Gavin introduced his paper regarding the outcome of the review of the AML/CFT Advisory Group completed in August 2019.

Following the last meeting, a short survey was circulated to members concerning the AML/CFT Advisory Group quarterly meetings, the current format and the subjects discussed. Mr Gavin thanked those who took the time to complete the survey; fifteen responses were received in total. The results highlighted several

SIGNED MINUTES

themes; members considered the size of group to be too large; the meetings were too government led, and a more significant contribution could and should be made by industry. A number of recommendations were set out in the paper which were then considered by the group.

A discussion on the recommendations followed. The recommendation that industry could be asked to contribute two agenda items at each meeting, including a short fifteen minute presentation, was not supported. The group felt that this would not have the desired effect or encourage greater participation, due to the differences between each industry sector. It was suggested that a topical discussion point should be circulated to members in advance of each meeting in order to stimulate discussion.

Ms O'Connor supported the idea that industry needed to contribute more to the discussion forums and highlighted that, as representatives of the financial and non-financial sectors, it was the responsibility of members to engage with their respective industry to understand their concerns and in turn bring them to the Advisory Group meeting for consideration.

It was agreed that the frequency of the meetings would continue as quarterly and the Cabinet Office would consult and then circulate specific themes for discussions between meetings.

029/19 NATIONAL RISK ASSESSMENT 2019

Mrs Ramsay started by thanking contributors for their feedback and comments.

Mrs Ramsay advised that the NRA 2019 was in its sixth draft. The draft remains a live document and was circulated to AML/CFT Advisory Group members on 26 November 2019 with the deadline of 04 December to submit any comments. The Cabinet Office expected the final document to be published early in 2020.

Mrs Ramsay invited members to discuss any issues they had identified.

Mr Mummery advised that he had raised a concern with the Cabinet Office regarding a vulnerability identified in the Online Gaming Sector in the case of credit card fraud. Mrs Ramsay acknowledged receipt of Mr Mummery's query and agreed that the content does appear to be misleading. Mrs Ramsay advised the Cabinet Office would refer to the GSC for their comments.

Ms O'Connor asked what the expectations were from the regulator for regulated businesses to update their own internal risk assessment based on the NRA 2019, as this is a requirement of the AML/CFT Code. Ms Mercer indicated that industry would be expected to review and update their own assessments on a transitional basis.

Ms Johnson highlighted that some of the language used in the Investment and Funds (I&F) sector chapters was not that used by the sector. Mrs Ramsay explained that the document aims for consistent language but invited Ms Johnson to forward suggestions to her.

Mr Snape asked whether the NRA 2019 supports the previous conclusions of the NRA 2015 and if the new version stands up to MONEYVAL requirements. Mrs

SIGNED MINUTES

Ramsay advised that the 2019 NRA does support the conclusions of the 2015 NRA. Mrs Ramsay further advised that the IoM had received a 'substantial' for IO1 in the MER however in 2015 there was not the amount of statistical data which is now available. The new data informs the findings in the report.

030/19 LEGISLATION – ORDERS UNDER POCA & ATCA CONCERNING 'TIPPING-OFF' & AML/CFT CODE AMENDMENTS

Mr Heckles updated the Group regarding the recent consultation in respect of the amendments concerning tipping-off and R23.

Mr Heckles apologised to members for the short consultation period. It was confirmed at the MONEYVAL plenary in July 2019 that any legislative measures are required to be in place 5 months before the plenary next meets. However at the FATF Plenary in October 2019, the deadline was amended to 6 months. The IoM is expected to submit its 3rd enhanced follow-up Report by the end of January (6 months before the plenary) and therefore the legislation needed to be approved at the December Tynwald at the very latest, so that it may be considered with the report.

031/19 UPCOMING MONEYVAL PLENARY

The next MONEYVAL Plenary will take place between the 02 December and 06 December 2019 in Strasbourg. Mr Heckles identified several matters of interest to the IoM:

i) The IoM's Compliance Enhancing Procedures (CEPs) report, which forms part of the Island's ongoing effectiveness reporting, is scheduled to be discussed. One issue remains which concerns the IOMFSA's ongoing enforcement of sanctions in severe cases. The report has requested that the IoM exit the CEPs process.

ii) The MERs of Cyprus and Gibraltar will be debated and adopted.

ii) A review of the MONEYVAL strategy will be discussed. Due to resource implications the FATF 5 Year Follow Up Assessment (FUA) process is currently under review. It is unclear how the FATF and consequently, MONEYVAL, intend to proceed with the FUA timetable as it is becoming more difficult to resource assessors. MONEYVAL is also experiencing its own resource issues as it looks to recruit more secretariat officers. Several alternative measures have been considered by the FATF, including:

- extending the FUA review period from 5 to 7 years;
- abandoning the current FUA process altogether; a new process would then be required to review the ratings given to the Immediate Outcomes;
- upon completion of the latest round of MERs, to postpone the start of a further round for a few years in favour of completing all FUAs and follow-up reports.

A more detailed discussion and further options regarding FUAs will be discussed at the FATF Plenaries in February and June 2020.

iv) There will be a presentation of the final report of the Financial Sector Commission on Modern Slavery and Human Trafficking, presented by Mr Daniel Thelesklaf, former Chair of MONEYVAL.

SIGNED MINUTES

v) A presentation will take place from the FATF in respect of the new methodology for 'Recommendation 15 – New Technologies' and virtual assets. FATF has approved comprehensive changes to R.15, which is linked to a number of other FATF Recommendations and Immediate Outcomes (IOs). The new changes have come into immediate effect.

Mr Heckles added that proposed work on combating the laundering of proceeds of illegal trafficking of wildlife was discussed at the FATF Plenary in October 2019 following pressure from environmental and animal rights groups. This project will analyse common supply chains and payment methods, as well as case studies from countries that have experience in investigating the financial flows from illegal wildlife trade. A questionnaire has also been circulated to all members to complete.

032/19 MONEYVAL REVIEW REPORT

Mrs Ramsay advised that the AML/CFT Policy Office is to produce a review of the work that has been delivered to address the recommended actions identified in the 2016 MONEYVAL MER. In the absence of an imminent independent review of effectiveness, the report would provide a useful reference for the authorities and also for industry.

033/19 INDUSTRY ROUND TABLE

Ms O'Connor raised a potential issue on behalf of the IOMCA in respect of the application of the customer risk assessment guidance recently issued by the IOMFSA for the non-life sector. Ms O'Connor agreed to discuss this separately with the IOMFSA outside of the meeting.

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Mr Whiting asked when the accountancy and tax sector specific AML/CFT guidance was scheduled to be issued. Ms Mercer advised that the IOMFSA was awaiting the publication of the NRA 2019 as this will influence how the guidance is to be drafted.

A discussion in respect of the AML/CFT Handbook guidance followed, in particular the tension between a risk based approach and a rules based approach. Some members noted that parts of industry felt that guidance needs to be followed exactly and not on a risk based basis, otherwise they will be penalised by the regulator. Ms Mercer advised that civil penalties will not be levied on guidance breaches. However the IOMFSA would consider the concerns highlighted and noted that a meeting between industry representatives and the IOMFSA might be helpful.

**Action
IOMFSA**


Ms Mercer advised that managing the size of the AML/CFT Handbook has always been a challenge, with certain sectors considering that the document was too large and others feeling that it was not detailed enough.

034/19 DATE OF NEXT MEETING

The date of the next meeting will be circulated to members in the New Year.

The meeting ended at 11.30am

SIGNED MINUTES


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Paul Heckles, AML/CFT Advisor, AML/CFT Policy Office (Chair)

03/03/2020
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Date